

## PLANNING COMMISSION MINUTES

MARCH 2, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-69-05

Change in zoning from C-1 Commercial to C-2 Commercial on property located at 5801 Bardstown Road (Tax Block 50 Lot 239), containing 0.353 acres and being in Louisville Metro.

Project Name: Gordon Motor Sport  
Owner: John L. Blakeman, Jr.  
5500 Mock Court  
Louisville, Kentucky 40258

Applicant: Michael Gordon  
5801 Bardstown Road  
Louisville, Kentucky 40291

Existing Uses: Vacant Gas Station

Proposed Use: Automobile Sales

Council District: 22 – Robin Engel  
**Staff Case Manager:** Aliza Tourkow, Planner II

Notice of this public hearing appeared in The Courier Journal on February 9, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

#### **The following spoke in favor of this request:**

Brian Evans, Qk4, 815 W. Market Street, Suite 300, Louisville, Kentucky 40202; who submitted his findings of fact and various pictures and exhibits.

#### **The following spoke in opposition:**

No one.

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### **SUMMARY OF TESTIMONY OF PROPONENTS:**

Brian Evans, the applicant's representative, began his discussion by asking staff to verify that the applicant agreed to provide 1 ½ times the required trees planted in the VUA LBA, not double as staff suggested in their presentation. Staff did confirm that the agreement was for 1 ½.

Mr. Evans then discussed the location and condition of the existing site within the Suburban Marketplace Corridor Form District. Discussion was given that the proposal would comply with Centers Policies 2.10 and 2.13 since this is a redevelopment project, which will eliminate a curb cut along Bardstown Road. The condition of the existing building was discussed, along with its proposed rehabilitation.

The proposed use's compatibility with the surrounding properties was discussed in relation to Compatibility Policies 3.1, 3.21, 3.22 and 3.24. Building design, materials and landscaping proposals were presented as they related to the proposed site, as well as the existing surrounding uses. Proposed renderings of the site were distributed for the Commissioners. Mr. Evans addressed questions concerning the materials that will be used on the addition, as well as the façade improvements to the existing structures. Stucco will be the main façade material and the structure will have a parapet roofline.

Mr. Evans then discussed Mobility and Transportation Policies 7.1, 7.2, 7.3, 7.4, 7.6, 7.9, 7.10 and 7.13., as it relates to the elimination of a curb cut along Bardstown Road and the use of a shared entrance with the property to the north.

The applicant agreed, by binding element, that the tree plantings in the LBA along Bardstown Road will be 1½ times the minimum required, and that no auto repairs will occur on site.

### **SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the

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Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the March 2, 2006 public hearing proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

**WHEREAS**, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and the file of the case that the proposal complies with Suburban Marketplace Corridor intent and Guideline 1.B.8 because the plan proposes a reuse of a location with a medium intensity use within the existing corridor located along a major arterial level roadway and encourages connectivity by elimination of an existing curb cut and utilizing a shared access point with an adjacent property; and

**WHEREAS**, the Commission finds that the proposal complies with Centers Policies 2.1, 2.3 and 2.5 and Compatibility Policy 3.11 and Marketplace Policy 6.6 because the proposal will locate a retail development in an existing activity center within a Suburban Marketplace Corridor Form District along a major arterial level roadway/transit corridor; and with Centers Policy 2.7 and the Fern Creek Small Area Plan because the proposal will rehabilitate an existing building; and

**WHEREAS**, the Commission finds that the proposal complies with the Centers Policies 2.10 and 2.13 through the redevelopment of an underutilized outlot parcel; because the proposal will eliminate a curb cut along Bardstown Road and share access with the adjacent site; and

**WHEREAS**, the Commission finds that the proposal complies with Compatibility Policies 3.1, 3.21, 3.22 and 3.24 because the plan proposes a use adjacent to uses that are of similar intensity; because the building design, materials and landscaping proposed are compatible to nearby developments; and

**WHEREAS**, the Commission finds that the proposal complies with Mobility/Transportation Policies 7.1, 7.2, 7.3, 7.4, 7.6, 7.9, 7.10 and 7.13 because the site is along an adequately developed major arterial (thus eliminating the need for additional right-of-way dedication), because the shared use of an entrance with the adjacent property and repair of existing curbs and sidewalks

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will provide impact mitigation and because adequate parking and joint and cross access is being provided; and

**WHEREAS**, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

**WHEREAS**, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from C-1 Commercial to C-2 Commercial** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**YES:** Commissioners Hamilton, Abstain, Adams, Queenan, Jones, Wells-Hatfield and Howard.

**NO:** No one.

**NOT PRESENT FOR THIS CASE:** Commissioners Ernst and Carlson.

**ABSTAINING:** No one.

### DETAILED DISTRICT DEVELOPMENT PLAN

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the

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Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 1,152 square feet of gross floor area for structures, and shall not exceed 6,152 square feet of outdoor display area.
3. Signs shall be in accordance with Chapter 8 and as presented at the public hearing (32 square feet in area and 20 feet tall).
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. The existing access point to Bardstown Road shall be closed and access to the site shall be made through the adjoining property over existing access points.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. The applicant shall supply 1.5 times the amount of required trees planted in the landscape buffer area along Bardstown Road. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to

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the office responsible for permit issuance will occur only after receipt of said instrument.

- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
- 8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
- 9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
- 10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 2, 2006, Planning Commission meeting.
- 12. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land

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development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

13. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. No auto repairs are allowed on this site.

**All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).**

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Adams, Queenan, Jones, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Ernst and Carlson.**

**ABSTAINING: No one.**

**Area to be Rezoned to C-2**  
**0.3530 Acres**

Being all of that property conveyed to John L. Blakeman, Jr. by deed dated January 19, 2005, of record in Deed Book 8576, Page 56, in the Office of the Clerk of Jefferson County, Kentucky and being more particularly described as follow:

Beginning at an iron pipe found at the intersection of the north right-of-way line of Bardstown Road with the east line of Dolt Capital, Ltd., of record in Deed Book 7377, Page 442, in the Office aforesaid; thence leaving said right-of-way line and running with Dolt Capital, Ltd. North 40°02'52" East, 110.00 feet to a set iron pin; thence continuing with Dolt Capital, Ltd. South 53°07'28" East, 140.00 feet to an iron pin set in the west line of AutoZone, Inc., of record in Deed Book 6448, Page 157, in the Office aforesaid; thence with AutoZone, Inc. South 40°02'52" West, 110.00 feet to a iron pipe found in the aforesaid north right-of-way line of Bardstown Road; thence with said right-of-way line North 53°07'28" West, 140.00 feet to the beginning, containing 15,376 square feet or 0.3530 acres.

RECORDED

SEP 14 2005

CLERK OF JEFFERSON COUNTY

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9-69-05



## Public Hearing Staff Report

March 2, 2006



<b>Case:</b>	9-69-05W
<b>Project Name:</b>	Gordon Motor Sport
<b>Location:</b>	5801 Bardstown Road (Tax Block 50 Lot 239)
<b>Owner:</b>	John L. Blakeman, Jr.
<b>Applicant:</b>	Michael Gordon
<b>Existing Uses:</b>	Vacant Gas Station
<b>Proposed Use:</b>	Automobile Sales
<b>Project Size/Area:</b>	0.353 acres
<b>Form District:</b>	Suburban Marketplace Corridor
<b>Zoning District:</b>	C-1 to C-2
<b>Jurisdiction:</b>	Louisville Metro.
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Aliza Tourkow, Planner II

### **Request**

Change in zoning from C-1 Commercial to C-2 Commercial on property located at 5801 Bardstown Road (Tax Block 50 Lot 239), containing 0.353 acres and being in Louisville Metro.

### **Staff Recommendation**

Staff recommends APPROVAL of the rezoning request and APPROVAL of the development plan, along with the associated binding elements contained within this report.

### **Case Summary / Background**

#### **Summary**

The applicant proposes to rezone the site from C-1 to C-2 to permit automobile sales. An existing 646 sf structure is located on-site and had been used as a gas station kiosk. It is proposed to be used as the office/retail portion of the auto sales business. A 506 sf addition will be added to the structure and it will contain a single bay for auto detailing and washing. No auto repairs will be made on-site. An existing freestanding sign will remain and it is 32 square feet in area and 20 feet tall. Signs in this form district can be up to 100 square feet in area and 24 feet tall.

Elevations have been submitted and they meet Design Guidelines per Chapter 5 Parts 5 & 6, with consistent materials and design along all facades of the structures.

The only ingress/egress point to the site will be from the adjacent commercial parcel to the north. No access from Bardstown Road will be permitted. A crossover/access agreement must be recorded with the adjacent property owner before transmittal of the plan. An access point to the east permits an automobile to enter the detailing bay from the adjacent commercial property. Two parking spaces on the adjacent shopping center lot will be crosshatched for use as the entry to the bay. The applicant has provided a site plan showing the existing shopping center site design, its parking requirements, and the amount of parking provided. The site data shows that reducing the parking by 2 spaces will not violate the minimum parking required for that site.

The proposed Tree Canopy amount of 32.8% exceeds the required Tree Canopy amount of 18%. The Hemlock tree at the rear of the site is proposed to be preserved. The required 5' VUA LBA along Bardstown Road will be provided, along with the required 3' tall screen. The applicant has agreed to provide 1.5 times the amount of trees required to be planted in this LBA, per request by the Site Inspection Committee.

#### ***Site Context***

The site is flat and has very little green space. One tree exists on the site. The lot is surrounded by a shopping plaza to the east and north. An auto sales business is located a few lots to the north. Offices, commercial sites, and residential lots are located across Bardstown Road to the west.

#### ***Land Use / Zoning District / Form District***

	Land Use	Zoning	Form District
<b>Subject</b>			
<b>Existing</b>	Vacant gas station	C-1	SMC
<b>Proposed</b>	Auto Sales	C-2	SMC
<b>Surrounding</b>			
<b>North</b>	Retail	C-1	SMC
<b>South</b>	Retail	C-1	SMC
<b>East</b>	Retail and office	C-1	SMC
<b>West</b>	Office, commercial, and residential	C-2, R-4, OR-1	SMC

#### ***Background***

No prior requests related to this property.

## **Project History**

<b>Project History</b>	<b>Date</b>	<b>Issues addressed / discussion / changes to proposal</b>
Pre-application meeting	9/28/05	Screening
Project submittal	12/6/05	
Staff review	12/14/05	Screening
Site Inspection Committee	12/16/05	Screening, facade
LD&T review	1/12/06	
Public hearing	3/2/06	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

### **Site Inspection Committee Comments:**

1. Need renderings (all four sides) that are compatible to buildings for redevelopment (brick)
2. Flood lights on poles should conform to new code.
3. Wonderful Hemlock at rear left corner should be protected.
4. Landscape buffer should be more that five feet or use 1 1/2 times the required planting in five feet buffer area to match surrounding area.
5. Can overhead electric go underground?
6. Where will signage be? Freestanding?

### **Staff Findings**

#### ***Relationship to Comprehensive Plan - Cornerstone 2020 Plan Element***

1. **Community Form & Marketplace** – Suburban Marketplace Corridors are generally located along major roadways with a development pattern containing medium to high intensity uses. Bardstown Road is a major arterial roadway and a busy, well established, commercial corridor. Automobile sales businesses are medium intensity uses, which are desirable in an activity center.

To encourage connectivity, one curb cut along Bardstown Road is being closed and access will be jointly used through the adjacent shopping center parking lot. Two parking spaces located on the adjacent shopping center lot are proposed to be used as an access area to the auto detailing portion of the building, which is a creative use of an underutilized parking lot. It also eliminates the need for extra pavement on the rezoning lot. All

required setbacks and buffer areas have been provided, with the applicant proposing to plant 1.5 times the amount of trees required in the Landscape Buffer Area along Bardstown Road. The Hemlock tree at the rear of the site will be put in a Tree Preservation Area. The façade elevations meet LDC requirements and will add to the aesthetics of the site. (1.B.8, 2.1, 2.3, 2.5, 2.7, 2.10, 2.13, 3.1, 3.11, 3.21, 3.22, 3.24, 6.6)

3. **Mobility / Transportation** – Existing entrances along Bardstown Road will be closed and sidewalks will be extended. Additional Right-of-Way is not required for dedication. Access to surrounding land uses is adequate and the required amount of parking is being provided. (7.1, 7.2, 7.3, 7.4, 7.6, 7.9, 7.10, 7.13)
4. **Livability / Environment** – MSD has not required any on-site detention. (10.7)

***Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)***

The proposed use adheres to the Fern Creek Small Area Plan by providing for commercial development in existing vacant buildings.

**Standard of Review**

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

**Attached Documents / Information**

1. Zoning Map

**Notification**

The following forms of notification were provided pertaining to this proposal:

Date	Description	Recipients
12/20/05	LD&T notice	APO & Neighborhood Groups
1/27/06	Public Hearing Notice	APO & Neighborhood Groups

**Standard Binding Elements - Docket No. 9-69-05**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code

(LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 1,152 square feet of gross floor area for structures, and shall not exceed 6,152 square feet of outdoor display area.
3. Signs shall be in accordance with Chapter 8 and as presented at the public hearing (32 square feet in area and 20 feet tall).
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. The existing access point to Bardstown Road shall be closed and access to the site shall be made through the adjoining property over existing access points.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

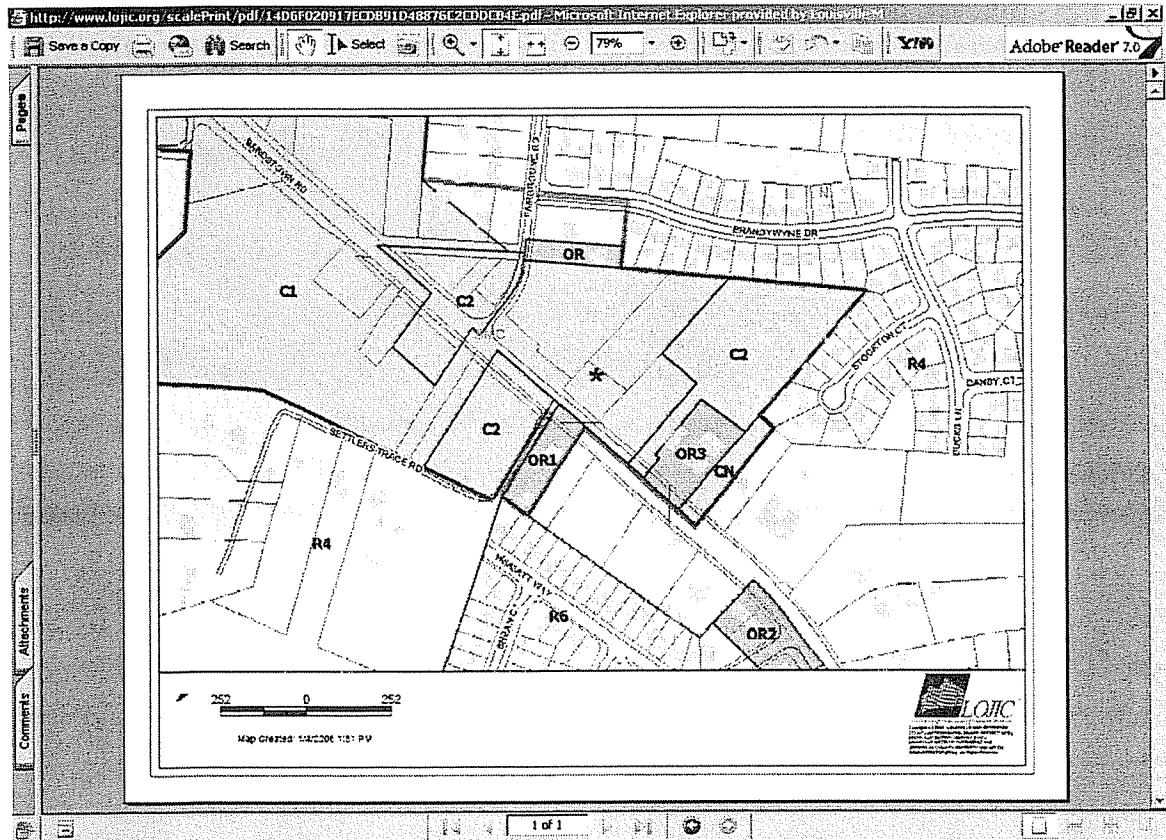
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting. **(or LD&T).**
12. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
13. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

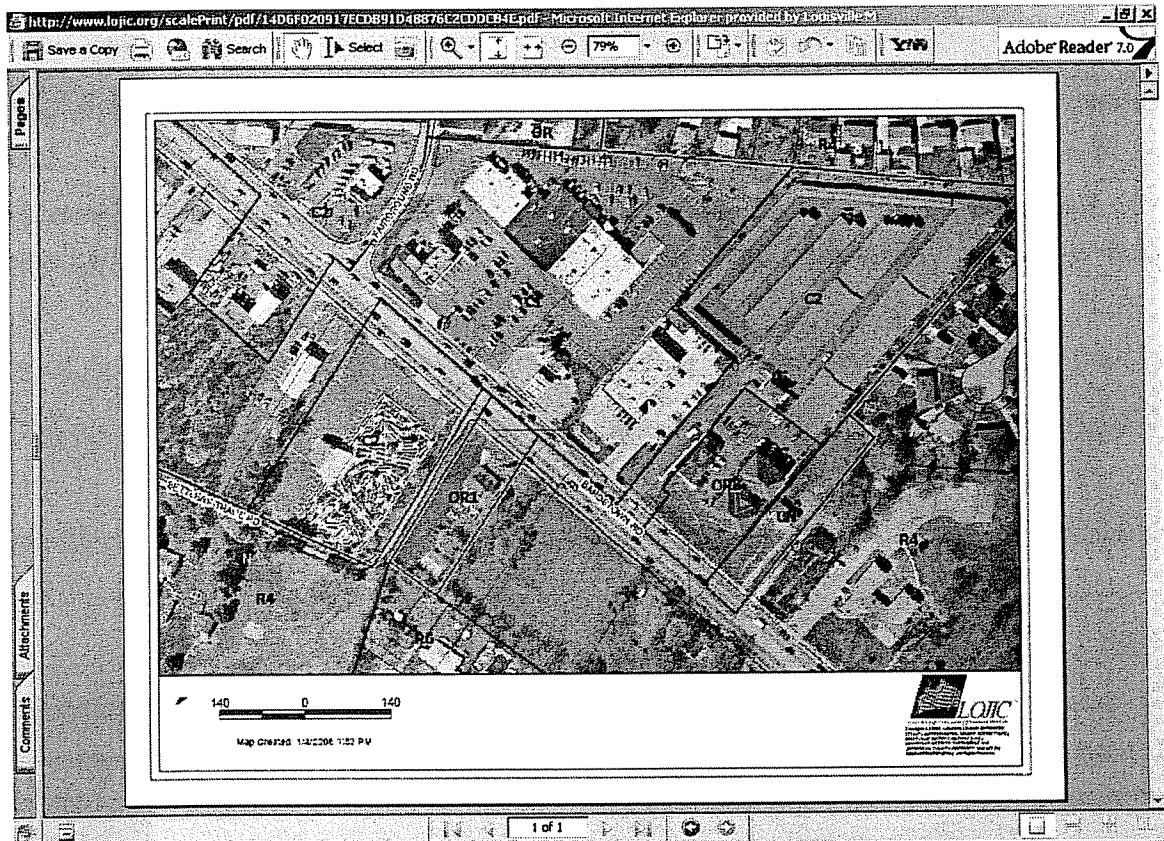
All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_





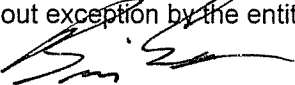


### **Binding Elements - Docket No. 9-69-05**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 1,152 square feet of gross floor area for structures, and shall not exceed 6,152 square feet of outdoor display area.
3. Signs shall be in accordance with Chapter 8 and as presented at the public hearing (32 square feet in area and 20 feet tall).
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. The existing access point to Bardstown Road shall be closed and access to the site shall be made through the adjoining property over existing access points.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. **1.5 TIMES THE AMOUNT OF REQUIRED TREES SHALL BE**
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument. **PLANTED IN THE LBA BTR.**
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 3/2/06 Planning Commission meeting.  
~~(or LD&T).~~
12. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
13. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. <sup>AUTO</sup> NO REPAIRS ARE ALLOWED ON SITE.

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

  
\_\_\_\_\_  
Name P.E.  
\_\_\_\_\_  
Title 02.02.06  
\_\_\_\_\_  
Date